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SERVICE DATE - JULY 11, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 7X)

FOX VALLEY & WESTERN LTD.--ABANDONMENT EXEMPTION--IN FOND DU LAC
AND WASHINGTON COUNTIES, WI

Decided: July 9, 2003

On January 31, 2000, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Wisconsin Department of Natural Resources, acting through the Wisconsin Department of Transportation (collectively referred to as WisDNR/DOT), to negotiate an interim trail use/rail banking agreement with Fox Valley & Western Ltd. (FVW) for a 24.64-mile line of railroad, known as the West Bend-Eden Line, extending from milepost 114.42 south of West Bend to milepost 139.06 in Eden, in Washington and Fond du Lac Counties, WI. The negotiating period under the NITU was extended a number of times at the joint request of WisDNR/DOT and FVW, and is currently scheduled to expire on July 14, 2003.¹

On June 24, 2003, WisDNR/DOT and FVW jointly filed a motion to extend the NITU negotiating period for an additional 180 days. The parties state that the negotiations to reach an agreement for interim trail use/rail banking are currently continuing in good faith, but that more time is needed to finalize negotiations.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the NITU negotiating period will be extended for an additional 180 days from July 14, 2003.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The negotiating period under the NITU was extended by decisions served July 28, 2000, January 22, 2001, July 23, 2001, January 15, 2002, July 18, 2002, and January 14, 2003.

² See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

It is ordered:

1. The joint motion of WisDNR/DOT and FVW to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended for 180 days until January 10, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary